UKCP's Complaints and Conduct Process
Complaint Hearing

28 May 2020 – Video Conference

Registrant: Khalida Sheikh - 08160063

Heard by: Adjudication Panel

Panel Members: Lionel Campuzano [Lay Chair]
Charmian Beer [College for Sexual and Relationship Psychotherapy]
Hilary Brown [Humanistic and Integrative Psychotherapy College]

Legal Assessor: John Donnelly [2 Bedford Row]

Panel Secretary: Eloise Cadman

UKCP Presenting Officer: Jonas Milner [2 Bedford Row]

Registrant: Registrant present and represented, Nicholas Cotter [3PB Chambers]

Panel decision: Misconduct Found
Background

The Registrant has been a member of UKCP since 2008 and was employed at the Bradford District Foundation Trust (BDFCT) (the Trust) in the psychotherapy department. The Registrant was also a member of the British Association of Counselling and Psychotherapy (BACP).

On 9 June 2017 whilst employed at the Trust she saw a private patient (non-NHS) during contracted hours on Trust premises without consent. This action was in breach of Trust policies and health and safety procedures. As a result on 31 October 2017 the Registrant was the subject of an internal disciplinary hearing where the allegations were upheld and the Registrant’s employment terminated on 6 November 2017 on the ground of gross misconduct. The Registrant subsequently appealed this decision but was unsuccessful and the appeal was dismissed on 22 November 2017. The Registrant had been found to have acted fraudulently, in breach of contract and in breach of professional accreditation. On 1 May 2017 the Trust informed the UKCP and on 2 May 2017 the Trust informed the BACP of the findings.

On 9 November 2018 the BACP convened to consider the Registrant’s continued membership of the regulatory body. The Registrant admitted that she had failed to notify BACP of her disciplinary hearing and subsequent dismissal as required under the conditions of membership. The BACP Panel considered the specific allegations and the Registrant’s responses and determined that the Registrant’s BACP membership should be withdrawn. The Registrant did not appeal this determination.

The Registrant now faces allegations before UKCP that she failed to notify UKCP of her dismissal from the Trust and that she failed to notify the UKCP that her membership to BACP had been withdrawn, both of which are conditions of her membership to the Register maintained by UKCP.

An Adjudication Panel was first held in respect of this matter on 16 January 2020 where an application to amend the allegations was made by the UKCP and not opposed by the Registrant. The application was granted and the allegations amended. This hearing was then adjourned.

A second Adjudication Panel hearing was held on 27 February 2020 and was also adjourned.

Detail of allegations

1. Whilst being a UKCP registered psychotherapist BACP’s complaints procedures determined that you (Khalida Sheikh):

   a. Failed to notify BACP of your disciplinary hearing and subsequent dismissal from Organisation X as required by the terms and conditions of your membership;

   b. The Disciplinary Panel concluded that you may have seriously breached the Ethical Framework for the Counselling Professions (2016);

   c. Your summary dismissal for conduct raised question about your probity and related directly to your therapeutic practice; and

   d. Your dismissal brought the reputations of BACP and the counselling and
psychotherapy professions into disrepute.

2. You failed to notify UKCP of your dismissal from Bradford District Care NHS Foundation Trust.

3. You failed to notify UKCP of your BACP membership being withdrawn.

For the reasons set out above your fitness to practice is thereby impaired by reason of misconduct and/or decision by another body/and or employer.

Hearing 28 May 2020

1. The Panel reconvened on 28 May 2020 with the attendance of the Registrant and all other parties.

2. The Panel received the following additional material, namely;
   a. Confirmation from the Registrant’s referees for their references to be maintained.
   b. Skeleton arguments and written submissions from both parties.

Allegations

1. Mr Cotter on behalf of the Registrant entered admissions to all the allegations.

2. The allegations were formally recorded as proved by admission.

Misconduct and impairment

1. Mr Milner on behalf of UKCP adopted his written opening note and asked that this be
entered into the transcript.

2. Mr Cotter on behalf of the Registrant also adopted his written submissions but made supplementary submissions in respect of the work the Registrant was currently undertaking in addition to her training regime.

3. The Registrant gave evidence under affirmation.

4. The Registrant confirmed that she is currently undertaking 30 hours work per week relating to assessment and therapeutic interventions with people who have medically unexplained symptoms. Further, the Registrant confirmed that supervision was being provided by her clinical lead based in Oldham.

5. The Registrant gave evidence that her current contract is a rolling contract of three months which is due for renewal/review in July 2020 and that it has already been renewed twice.

6. The Registrant outlined her working timetable pre and post the Covid-19 regime.

7. Pre Covid-19, the Registrant maintained two hours per week of private work, post Covid-19 she has one client per month via Zoom.

8. Supervision is taking place online via Zoom for one hour per month.

9. The Registrant confirmed that there had been no concerns about her clinical practice or indeed any suggestion of breaches of the Code between 2017 and 2020.

10. The Registrant detailed recent training courses that she has undertaken, mindful that there had been no allegations in respect of her clinical practice. The Registrant detailed a course from May – December 2017 which she had funded at a cost of £1,500 and outlined her engagement with webinars and other courses.

11. The Registrant accepted that her behaviour amounted to misconduct and detailed that
she had “a lot of regrets”, had endured suffering for her mistakes and had reflected and learnt from the experience.

12. The Registrant detailed particular aspects that she had reflected upon, firstly to maintain clear boundaries and to follow the ethical codes of her regulator. She invited the Panel to consider that there would be no repetition, she would maintain personal integrity, and that no client would be exposed to any abuse.

13. The Registrant described how she had been approaching her private work after her employment had been terminated, but added that she had refused that possibility of additional work, that she needed to draw a clear line and described the incident as a learning curve and that it had helped her to establish clear boundaries. The Registrant further confirmed that she has read and understood the guidelines.

14. In cross examination the Registrant accepted that the allegations had amounted to serious professional misconduct and had been capable of bringing the reputation of the profession into disrepute.

15. The Registrant maintained that at the time of these events, she was aware of the Ethical Principles and Code of Professional Conduct, particularly 4.2 b and c, namely her duty to notify UKCP of her dismissal from her NHS employment and her BACP membership being withdrawn. The Registrant described how she was aware of the Code, but that her failure to notify had been an oversight.

16. The Registrant described the reason behind her failure to notify UKCP by contrast to BACP, she explained that it was because BACP had responded to her while UKCP did not. The Registrant accepted that it was still definitely an oversight on her part.

17. The Registrant described her current practice, confirming that her supervisor is fully aware of these proceedings and that she sees her supervisor on a monthly basis and is now working a 30 hour week.

18. The Registrant maintained that she is very diligent, keeps clear boundaries with clients and is conscious of work, time, and hours.
19. When questioned about patient safety, at the time of these events, the Registrant had a case load of 18 clients which were under the NHS. When the Registrant's contract was terminated, she could no longer engage with any of these clients. The Registrant confirmed that one client had contacted her via the directory, and that she had declined his approach in light of her contractual termination. The Registrant identified a second approach in 2019 from a former client, this too was declined.

20. The Registrant conceded that this turn of events had definitely not been in the best interest of her clients and accepted that it had damaged their therapy, that new therapists would be required if it happened again, but also responded that she would not do that.


22. Mr Milner on behalf of UKCP invited the Panel to consider his written submissions, particularly paragraph 19 and the authority of Zygmunt v GMC 2008 EWHC 2643 and paragraph 22, Yeong v GMC 2009 EWHC 1923.

23. Mr Milner submitted that there remained a risk to patients and potential for harm and that risk was ongoing. Mr Milner further submitted that the Registrant’s behaviour would bring the profession into disrepute and it was fundamental for a Registrant to work in partnership with their regulator.

24. Mr Milner further addressed the Panel, submitting that the breach of Code 4.2 was a breach of a fundamental tenet of the profession and further that the Registrant had displayed little insight to the damage to the reputation of the profession, but had focused on her own difficulties.

25. Mr Cotter adopted his skeleton argument and addressed the Panel in respect of the context of these events, the Registrant’s actions thereafter, her reflections and insight and the way ahead.

26. Mr Cotter reminded the Panel of the Registrant’s impeccable long career and achievements and reminded the Panel that this was not an allegation of dishonesty and that the Registrant had remained candid throughout.
27. Mr Cotter submitted that the Registrant had acknowledged her faults, had recognised where she went wrong and had given evidence of how she had remediated.

28. Mr Cotter detailed the Registrant’s evidence, submitting that she had remediated having attended a reflective course, continued supervision and he noted that there had been no repetition of these events since June 2017.

29. Mr Cotter further submitted that the Registrant had learnt a great deal within the passage of time and had equally gained much insight.

30. Mr Cotter drew the Panel’s attention to the authority of Cohen v GMC 2008 EWHC 581.

31. The Panel heard and accepted the advice of the Legal Assessor.

**Determination on Misconduct**

1. In accordance with rule 7.23 of UKCP’s Complaints and Conduct Process, the Panel then went on to consider the question of misconduct. In addressing this question the Panel took into account of the relevant information before it.

2. In addressing whether the facts proved amounted to misconduct, the Panel had regards to the words of Lord Clyde in the case of Roylance v. General Medical Council. He stated:

   “Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required by…a practitioner in the particular circumstances.”

3. In light of the above, the Panel determined that the Registrant’s failure to observe Code 4.2 b and c namely the duty to inform UKCP of BACP’s withdrawal of her membership and dismissal from her NHS Foundation Trust employment had amounted to a serious omission on her behalf and that fellow practitioners would regard it as deplorable.

4. The Panel determined that misconduct is found proved.
Determination on impairment

1. The Panel then went on to consider the question of impairment. This determination should be read in accordance with the Panel’s previous determinations.

2. The Panel applied the approach as set out in the 5th Shipman Enquiry and Dame Janet Smith’s approach to determine the question of impairment.

“Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

a. Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d. …

3. The Panel considered whether the Registrant’s misconduct is easily remedied; has already been remedied; and whether it is likely to be repeated.

4. In addressing the issues of current impairment, the Panel also had regard to issues of insight.

5. The Panel recognised that the assessment of impairment is to be made as of today. The Panel was mindful that there had never been any concerns about the Registrant’s clinical practice before or after this incident and further that she had an unblemished and commendable career track record which was supported by testimonials and references.

6. The Panel considered that as of today there was no risk to patients and that the Registrant had addressed her failings and identified the key issues that had resulted in the termination of her NHS contract and the subsequent implication of her failure to maintain contact with and notify UKCP.

7. The Panel further noted that there is no allegation of dishonesty although questions of probity and
transparency had been raised, the Registrant had engaged with this process despite demanding family circumstances and the focus of the Panel was that of public confidence in the profession and UKCP as a regulator.

8. The Panel did consider the question of remediation, the Panel considered that the Registrant’s actions were capable of and had been remediated. The Panel further considered that the Registrant’s evidence on affirmation was cogent and compelling and was satisfied that there was very little risk of repetition. The Process had been salutary.

9. The Panel was particularly conscious of the status and place of psychotherapy within the NHS system, and the importance of maintaining public confidence in that regard. The Panel further recognised that a failure to find current impairment would bring these proceedings to an end.

10. The Panel was satisfied that the Registrant is not currently impaired as of today and that confidence in the profession and UKCP as a regulator would be maintained by the finding of misconduct alone which would remain on the UKCP Register for a period of 12 months.

11. The Panel was further satisfied that a fully informed reasonable observer would not lose confidence in the profession in light of the foregoing and that it was both proportionate and fair to conclude these proceedings in this way.

Lionel Campuzano,
Lay Chair

28/05/2020